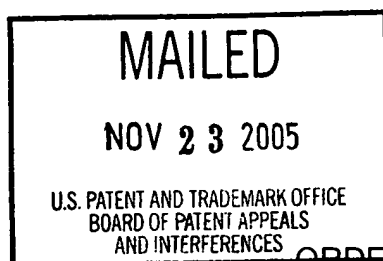


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TOBIAS GERLACH

Application No. 10/678,799



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on September 13, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matter(s) requiring attention prior to docketing are identified below:

In response to the examiner's answer mailed May 26, 2005, appellant filed a reply brief on June 2, 2005.

The examiner mailed an action on July 13, 2005 noting the reply brief filed on June 2, 2005. The action also included significant arguments to new issues raised in the reply brief. The examiner's response in the action are extensive to the point of constituting a Supplemental Examiner's Answer. The Manual Of Patent Examining Procedure (MPEP) § 1207.05 (8th ed., Rev. 3, August 2005) states in part, "Every

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supplemental examiner's answer must be approved by a Technology Center (TC) Director or designee." (emphasis added).

Therefore, although a Supplemental Examiner's Answer is permitted in a response to a reply brief, it must be approved by persons authorized to grant such approval. Currently, the Technology Center Director(s) or the Director's designee. The supplemental examiner's answers mailed July 13, 2005 does not appear to contain the required authorization.

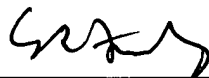
Accordingly, it is

ORDERED that the application is being returned to the Examiner to resubmit an action acknowledging receipt of the reply brief:

- a) with proper approval for the Supplemental Examiner's Answer since the examiner wishes to present arguments to issues raised in the reply brief, and
- c) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By:



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Application No. 10/678,799

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